

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PFS INVESTMENTS INC,
METLIFE INVESTORS
USA COMPANY, and METLIFE
INSURANCE COMPANY
OF CONNECTICUT,

Plaintiffs,

v.

CIPRIAN ORTIZ, JR., YOLING ORTIZ,
CIPRIAN E. ORTIZ III, and C. O., a minor,

Defendants.

No.

**COMPLAINT FOR INTERPLEADER
AND DECLARATORY RELIEF**

Plaintiffs PFS Investments Inc. (“PFSI”), MetLife investors USA Company and MetLife Insurance Company of Connecticut (collectively “MetLife”), alleges the following complaint for interpleader and declaratory relief pursuant to Federal Rule of Civil Procedure 22 against defendants Ciprian Ortiz, Jr., Yoling Ortiz, Ciprian E. Ortiz, III, and C.O., a minor.

I. JURISDICTION AND VENUE

1.1 This Court has jurisdiction over this dispute pursuant to 28 U.S.C. § 1332 and 28 U.S.C. § 1335. The matter in controversy exceeds the sum or value of \$75,000, exclusive of interest or costs, is between citizens of different states, and is an action for interpleader.

1.2 Plaintiff PFSI is a Georgia corporation with its principal place of business in Duluth, Gwinnett County, Georgia.

1.3 Plaintiff MetLife Investors USA Company is California corporation with its principal place of business in Orange County, California.

1.4 Plaintiff MetLife Insurance Company of Connecticut is a Connecticut corporation with its principal place of business in Hartford, Hartford County, Connecticut.

1.5 Defendant Ciprian Ortiz, Jr. resides in Seattle, Washington and is subject to the jurisdiction and venue of this Court. Ciprian Ortiz, Jr. is the ex-husband of Defendant Yoling Ortiz.

1.6 Defendant Yoling Ortiz resides in Edmonds, Washington, and is subject to the jurisdiction and venue of this Court. Yoling Ortiz is the ex-wife of Defendant Ciprian Ortiz, Jr. and the niece of and agent under power of attorney for Ignacia Nicolas, now deceased.

1.7 Defendant Ciprian E. Ortiz, III resides in Edmonds, Washington, and is subject to the jurisdiction and venue of this Court. Ciprian E. Ortiz, III is the son of Ciprian Ortiz, Jr and Yoling Ortiz.

1 1.8 Defendant C.O., a minor, resides in Edmonds, Washington, and is subject to
2 the jurisdiction and venue of this Court. C.O. is the child of Ciprian Ortiz, Jr and Yoling
3 Ortiz.

4 1.9 Venue is proper pursuant to 28 U.S.C. § 1391(a) and 28 U.S.C. § 1397.
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6 **II. BACKGROUND FACTS**

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8 2.1 In 2002, Ignacia Nicolas and Defendant Yoling Ortiz, as joint owners,
9 established a variable annuity account (the “contract”) with MetLife. Ignacia Nicolas was the
10 annuitant under the contract. Defendant Ciprian Ortiz, Jr., who then was married to
11 Defendant Yoling Ortiz, was designated as the primary beneficiary, and the couple’s then-
12 minor children Ciprian E. Ortiz, III, and C.O. were designated as contingent beneficiaries.
13 Defendant Ciprian Ortiz, Jr. was not aware that he was designated as the primary beneficiary
14 of the contract.
15

16 2.2 Defendant Ciprian Ortiz, Jr. and Defendant Yoling Ortiz divorced after the
17 contract was established.

18 2.3 Ignacia Nicolas died in 2005. In 2006, MetLife was contacted by Cecilia
19 Sawyer, the representative who established the contract, regarding Ms. Nicolas’ death. It sent
20 Ms. Sawyer a letter acknowledging notice of Ms. Nicolas’ death and enclosed an annuity
21 claim form.
22

23 2.4 MetLife heard nothing further regarding the contract until 2009, when Ms.
24 Sawyer called to request an annuity claim form. During this call, Ms. Sawyer questioned why

1 Defendant Yoling Ortiz was not the beneficiary. She was advised that the designated
2 beneficiary, Defendant Ciprian Ortiz, Jr., rather than the joint owner of the contract
3 (Defendant Yoling Ortiz) was entitled to the funds. MetLife sent another letter to Ms.
4 Sawyer, similar to the one sent in 2006.

5
6 2.5 Shortly thereafter, MetLife received Ignacia Nicolas' death certificate and a
7 completed annuity claim form. It mailed a check for \$148,361 (the "annuity proceeds") made
8 payable to Ciprian Ortiz, Jr. to the address on the annuity claim form. Defendant Ciprian
9 Ortiz, Jr. claims he never received this check.

10 2.6 Despite being aware that his being named as beneficiary was a mistake,
11 Defendant Ciprian Ortiz, Jr. has asserted a claim to the annuity proceeds against PFSI and
12 MetLife.

13
14 2.7 Defendant Yoling Ortiz also believed that she would receive the annuity
15 proceeds upon the death of her aunt, Ignacia Nicolas, who had no intention to name as
16 beneficiary Ciprian Ortiz, Jr., her niece's then husband, rather than her niece. Defendant
17 Yoling Ortiz also has asserted a claim to the annuity proceeds.

18 2.8 PFSI and MetLife have endeavored to resolve the dispute to the annuity
19 proceeds between Defendant Ciprian Ortiz, Jr. and Defendant Yoling Ortiz. Defendant
20 Yoling Ortiz has agreed to allow the annuity proceeds to be divided equally between the
21 children of Defendant Ciprian Ortiz, Jr. and Defendant Yoling Ortiz, Ciprian E. Ortiz, III, and
22 C.O. Defendant Ciprian Ortiz, Jr. refuses to allow the annuity proceeds to be paid to the
23 children rather than to himself.
24

1 2.9 Because of this dispute, PFSI and MetLife are uncertain as to whom and in
2 what amounts the annuity proceeds should be paid. PFSI and MetLife seek in this action to
3 tender the annuity proceeds into the registry of the Court for disposition and payment by the
4 Court upon determination of the respective claims of the defendants in this interpleader
5 action.

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7 2.10 Unless the defendants to this action are restrained or enjoined from prosecuting
8 suits against PFSI, MetLife and/or their agents and representatives, PFSI and MetLife will be
9 subjected to multiple claims and suits and inconsistent judgments, potentially in excess of the
10 annuity proceeds. The outcome of the multiple suits will not be properly determinative of the
11 manner in which the limited fund held by PFSI / MetLife should be apportioned among the
12 defendants.

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14 **III. CLAIM AND CAUSE OF ACTION: INTERPLEADER**

15 3.1 A controversy exists as to which defendant, or other person, if any, plaintiffs
16 are obligated to pay the proceeds of the annuity.

17 3.2 Plaintiffs are entitled to a judicial decree establishing the rights of the
18 defendants to the proceeds of the subject annuity and establishing plaintiffs' obligations, if
19 any, to pay any, some, or all of the defendants the annuity proceeds. In the absence of such a
20 decree, plaintiffs will be exposed to competing claims and obligations as to payment of the
21 annuity proceeds.
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IV. REQUEST FOR RELIEF

WHEREFORE, PFSI and MetLife pray:

- (a) That the Court permit the annuity proceeds of \$148,361 to be paid into the registry of the Court pending further disposition by the Court;
- (b) That the Court order defendants to interplead their respective claims to said sum;
- (c) That the Court adjudge which defendant(s) is/are entitled to the annuity proceeds;
- (d) That the Court enjoin and restrain defendants from instituting any civil actions with respect to the contract and/or for the recovery of the annuity proceeds or any part thereof;
- (e) That the Court discharge PFSI and MetLife from any and all liability in this case;
- (f) That the Court award to PFSI and MetLife their costs and reasonable attorney's fees in bringing this interpleader action; and
- (g) That the Court provide plaintiffs with such other and further relief as the Court deems just and proper.

1 DATED this 3rd day of July 2013.

2
3 CORR CRONIN MICHELSON
BAUMGARDNER & PREECE LLP

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CERTIFICATE OF SERVICE

I hereby certify that on July 3, 2013, I electronically filed the foregoing with the Clerk of the U.S. District Court for the Western District of Washington using the CM/ECF system

I also sent the foregoing to be served via legal messenger on July 5, 2013 to:

Louis G. Hunter
605 Thomas Street
Seattle, WA 98109

DATED: July 3, 2013, at Seattle, Washington.

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